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SERVICE DATE - SEPTEMBER 9, 2003

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-838]

East St. Louis Junction Railroad Company – Adverse Abandonment – in St. Clair  
County, IL

[STB Docket No. AB-33 (Sub-No. 199)]

Union Pacific Railroad Company – Adverse Discontinuance – in St. Clair County, IL

On August 20, 2003, the Illinois Department of Transportation (IDOT) filed with the Surface Transportation Board (Board) an application under 49 U.S.C. 10903 seeking the adverse abandonment of the East St. Louis Junction Railroad Company's (ESLJ) line of railroad between milepost 0.0 and milepost 1.16, plus 6.40 miles of switch track and .34 miles of spur track, a total of 7.90 miles of track, in the National Stock Yards in St. Clair County, IL. IDOT also requests that the Board grant an adverse discontinuance of rail service over the subject rail property provided by ESLJ's lessee, Union Pacific Railroad Company (UP). The line traverses United States Postal Service ZIP Code 62071, and includes the station of National Stock Yards.

Appreciable portions of the land underlying the railroad line proposed for abandonment and discontinuance of service are required for the construction of a relocated Illinois Route 3 and the construction of a connection from Interstate Highway I-64 in Illinois to a proposed New Mississippi River Bridge and relocated Interstate

Highway I-70. This abandonment will permit the grade separation of all state highways and railroad lines in this area.

Based on information in IDOT's possession, the line does not contain Federally granted rights-of-way. Any documentation in IDOT's possession will be made available promptly to those requesting it. The applicant's entire case for abandonment and discontinuance was filed with the application.<sup>1</sup>

This line of railroad has not appeared on the railroads' system diagram map in Category 1.

The interests of UP's employees will be protected by the conditions set forth in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979). Employees of ESLJ, however, will not receive such protection, as all of the railroad's line is to be abandoned and it is not part of a system that will benefit from the abandonment. See Yreka Western Railroad Company – Abandonment Exemption – In Siskiyou County, CA, STB Docket No. AB-246 (Sub-No. 2X) (STB served May 4, 1999).

In an application by a third party for a determination that the public convenience and necessity permits service over a line to be discontinued and the line itself to be abandoned, the issue before the Board is whether the public interest requires that the line in question be retained as part of the national rail system. By granting a third party (or

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<sup>1</sup> In a decision served in this proceeding on June 30, 2003, IDOT was granted exemptions and waivers, respectively, from several of the applicable statutory provisions governing rail line abandonments, and from several related filing requirements of the Board's regulations at 49 CFR 1152.

“adverse”) application, the Board withdraws its primary jurisdiction over the line.

Questions concerning the disposition of the line, including the adjudication of various claims of ownership or other rights and obligations, are then left to state or local authorities. See Kansas City Pub. Ser. Frgt. Operations Exempt. – Aban., 7 I.C.C.2d 216, 224-26 (1990).

Because IDOT intends to convert the property underlying the subject rail line to highway purposes, conflicting public use requests are not appropriate, and offers of financial assistance to acquire or subsidize service on the line will not be entertained in this proceeding.

Any interested person may file with the Board its protest of, or written comments concerning, the proposed abandonment and discontinuance of service.<sup>2</sup> Written comments and protests must identify the proceeding, i.e., STB Docket No. AB-No. 838, in the case of the abandonment of the ESLJ line, and STB Docket No. AB-33 (Sub-No. 199), in the case of the discontinuance of service by UP, and must be filed by no later than October 6, 2003.

Protests must contain that party’s entire case in opposition (case in chief) including the following: (1) protestant’s name, address, and business; (2) a statement

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<sup>2</sup> Persons opposing the proposed abandonment or discontinuance who wish to participate actively and fully in the process through the submission of their entire opposition case in the form of verified statements and arguments, should file a protest. Persons who may oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments.

describing protestant's interest in the proceeding including: (i) a description of the protestant's use of the line; (ii) if protestant does not use the line, information concerning the group or public interest it represents; and (iii) if protestant's interest is limited to the retention of service over a portion of the line, a description of the portion of the line subject to protestant's interest (with milepost designations if available); (3) specific reasons why protestant opposes the application including information regarding protestant's reliance on the involved service (this information must be supported by affidavits of persons with personal knowledge of the fact(s)); and (4) any rebuttal of material submitted by applicant.

In addition, a commenting party or protestant may provide a statement of position and evidence regarding: (i) environmental impact; (ii) impact on rural and community development; or (iii) recommended provisions for protection of the interests of employees.

All filings in response to this notice must refer to STB Docket No. AB-838 and STB Docket No. AB-33 (Sub-No. 199), and should be sent to: (1) Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001, and (2) Fritz R. Kahn, Esq., 1920 N Street, N.W. (8th floor), Washington, DC 20036-1601. The original and 10 copies of all comments or protests shall be filed with the Board, together with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment and discontinuance proceeding. 49 CFR 1104.12(a).

Persons seeking information concerning the filing of protests may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1539. [TDD for the hearing impaired is available at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in abandonment or discontinuance proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Board decisions and notices are available on our website at  
"WWW.STB.DOT.GOV."

Decided: September 2, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings

Vernon A. Williams

Secretary